



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-5065

DON SUNDQUIST
GOVERNOR

DOUGLAS M. SIZEMORE
COMMISSIONER

BULLETIN

TO: All Insurance Companies
FROM: Douglas M. Sizemore, Commissioner *DMS*
SUBJECT: **AGENT COMPENSATION**
DATE: January 8, 1998

The purpose of this bulletin is to clarify the department's position on the issue of fees charged by insurance agents.

It is the long-standing position of the department that all charges and costs incurred by an insured in connection with the purchase of a policy of insurance must be included in the rates which insurance companies are required to file with the department pursuant to T.C.A. § 56-5-301 et seq. Thus, any charge to an insured by an insurance agent in connection with the sale, solicitation, or negotiation of an insurance policy must be reflected in the schedule of rates files with the department. Further, all charges to insureds for the same type of policy must be uniform in order to avoid further discrimination between risks of the same class and essentially the same hazard, which is prohibited by T.C.A. § 56-8-104(6).

A fee which is not connected with the sale, solicitation, or negotiation of a policy of insurance, and which, therefore, would not be included in the term "rate," may be charged by an agent. Some factors which may be useful in analyzing whether a fee is connected with the sale, solicitation, or negotiation of a policy of insurance are:

1. Whether the services performed by the agent are associated with the sale, underwriting, issuance, or servicing of a policy of insurance;
2. Whether compensation is dependent upon the purchase of a policy of insurance;
3. The date of payment of the fee in relation to the date a policy of insurance was issued.

Although these factors are provided for guidance, the department will continue to review each transaction on a case-by-case basis.

DMS:SR:dkb